

INGRASSIA FISHER & LORENZ, P.C.


7150 E. CAMELBACK, SUITE 325

SCOTTSDALE, ARIZONA 85251

Telephone: (480) 385-5060

Facsimile: (480) 385-5061

RECEIVED
CENTRAL FAX CENTER**MAR 25 2005****FACSIMILE TRANSMITTAL SHEET**

TO:	FROM:
Examiner J.A. Fischetti	Paul D. Amrozowicz, Reg. No. 45,264 
COMPANY:	DATE:
USPTO	FRIDAY, MARCH 25, 2005
703.872.9306	TOTAL NO. OF PAGES INCLUDING COVER:
	18
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
703.308.4357	H0002193-3170
RE:	RECIPIENT'S REFERENCE NUMBER:
Response to Notification of Non-Compliant Appeal Brief	09/839,037

URGENT

FOR REVIEW

PLEASE COMMENT

PLEASE REPLY

PLEASE RECYCLE

NOTES/COMMENTS:

**FORMAL COMMUNICATION INTENDED FOR
ENTRY**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA U.S. POSTAL SERVICE.

THANK YOU.

BEST AVAILABLE COPY

PTO/SB/21 (08-03)

Approved for use through 08/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/839,037	
	Filing Date	April 19, 2001	
	First Named Inventor	Vick D. NAISH	
	Art Unit	3627	
	Examiner Name	J. A. Fischetti	
Total Number of Pages in This Submission	17	Attorney Docket Number	H0002193-3170

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.32 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to Notification of Non-Compliant Appeal Brief
Remarks		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm or Individual name: Paul D. Amrozowicz, Reg. No. 45,264 Signature: Date: 3/25/05		

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.		
Typed or printed name	Paul D. Amrozowicz	
Signature		Date: 3/25/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BEST AVAILABLE COPY

RECEIVED
CENTRAL FAX CENTER
MAR 25 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of: Vicki D. NAISH et al. Group Art Unit: 3627
Serial No.: 09/839,037 Examiner: J. A. Fischetti
Filed: April 19, 2001 Confirmation No.: 3621

For: METHOD AND APPARATUS FOR CUSTOMER STOREFRONT
 OPERATIONS

Attorney Docket No.: H0002193-3170

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief ("Notification") mailed March 14, 2005, Appellant hereby submits a complete new Appeal Brief in compliance with 37 C.F.R. § 41.37. The new brief submitted herewith is an exact duplicate of that which was previously filed on December 28, 2004, and which was allegedly non-compliant. As will now be explained, the Notification is wholly erroneous and Appellant respectfully requests that it be acknowledged as such.

The Notification alleges that the originally-filed Appeal Brief does not include a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, as required in 37 C.F.R. § 41.37(c)(1)(v). However, as can be clearly seen from the duplicate copy of that Appeal Brief that is submitted herewith, a section entitled "Summary of Claimed Subject Matter" is clearly provided on page 3, and

BEST AVAILABLE COPY

indeed this section includes a concise explanation of the subject matter defined in independent Claim 14, the only independent claim on appeal. The concise explanation references page and line numbers in the specification and the drawings, where appropriate, using reference numerals. Moreover, such a concise explanation is provided for each and every element that is listed in independent Claim 14.

Unfortunately, it appears as though the Examiner is reading extra language into Rule 41.37 by an indication in the Notification that "[t]he Summary of the Claimed Subject matter (sic) needs to have a line by line accounting of the elements of the independent claim(s) each referenced to the corresponding description in the specification." This, however, is not a requirement of the Rule. Indeed, nowhere in the Rule is there language that states a "line by line accounting" of each independent claim is required.

As Rule 41.37(c)(1)(v) clearly states, the only requirement is that the brief shall contain "a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters." See 37 C.F.R. § 41.37. The Appeal Brief submitted herewith, which is an exact duplicate of the originally submitted Appeal Brief, includes just such a "concise explanation" for independent Claim 14, which is the only independent claim on appeal.

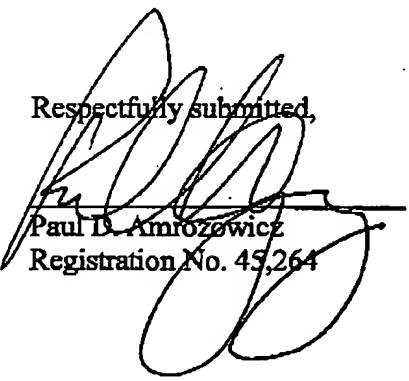
In view of the foregoing, it is submitted that the Appeal Brief submitted herewith in response to the above-noted Notification, while not being compliant with an arbitrary requirement supplied in the Notification, is fully compliant with the clear and unmistakable language of 37 C.F.R. § 41.37(c)(1)(v), and should therefore be accepted without further delay.

Dated

3/25/05

Ingrassia, Fisher & Lorenz
Customer No. 29,906

Respectfully submitted,


Paul D. Amrozowicz
Registration No. 45,264